



Docket No. 2685.2046 US3
Expedited Procedure under 37 C.F.R. 1.116
Examining Group 1616

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Richard P. Batycky, Giovanni Caponetti, Mariko Childs, Elliot Ehrich,
Karen Fu, Jeffrey S. Hrkach, Wen-I Li, Michael M. Lipp, Mei-Ling Pan and
Jason Summa

Application No: 10/607,571 Group No.: 1616

Filed: June 26, 2003 Examiner: James Henry Alstrum Acevedo

Confirmation No.: 6287

Title: INHALABLE EPINEPHRINE

PETITION UNDER 37 C.F.R. §1.181

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants hereby petition the Commissioner for Patents under 37 C.F.R. §1.181 to withdraw the finality of the office action mailed on March 5, 2008, in the above-identified application.

In accordance with MPEP §706.07(a), an Office Action can not be made final where there is a new ground of rejection introduced by the examiner which was not necessitated by an amendment to the claims. In the Final Office Action dated March 5, 2008, the Examiner rejects the claims under 35 U.S.C. §112, second paragraph, for new reasons not cited in any of the previous Office Actions. Applicants did not amend any claims in response to the previous non final office action. The finality of the rejection is improper under these circumstances. Applicants respectfully request that this petition be granted and that the finality of the Examiner's rejection in the Office Action be withdrawn.

Application No. 10/607,571

Please charge the fees to Deposit Account No. 502807 to cover the fees required for filing the indicated documents. Please charge any deficiency or credit any overpayment in the fees that may be due in this matter to Deposit Account No. 502807.

Respectfully submitted,

ELMORE PATENT LAW GROUP, PC

/Darlene A. Vanstone/

Registration No. 35,729

Telephone: (978) 251-3509

Facsimile: (978) 251-3973

Dated: **May 2, 2008**